

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Steven Penny

(b) County of Residence of First Listed Plaintiff Hamilton

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rose Ann Fleming 3836 Ledgewood Dr. Ste. 1
Cincinnati, OH 45207 513-745-3648

DEFENDANTS

Cottingham Retirement Community and Rochelle Watson

County of Residence of First Listed Defendant Hamilton

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Salsbury & Salsbury, LPA 4611 Hudson Dr. Ste. 400
Hudson, OH 44236 330-655-5760 Kristina Leach

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII of the Civil Rights Act as Amended

Brief description of cause:

Employment Discrimination Based on Race

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

August 31, 2021

SIGNATURE OF ATTORNEY OF RECORD

Kristina Leach

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**SUPPLEMENTAL CIVIL COVER SHEET
FOR CASES REMOVED FROM STATE COURT**

*This form must be attached to the Civil Cover Sheet at the time
the case is filed in the United States District Court*

State Court County: <u>Hamilton</u>		
Case number and caption:		
<u>A 2004247</u> Case Number	<u>Steven Penny</u> Plaintiff(s)	vs <u>Cottingham Retirement C</u> Defendant(s)

Jury Demand Made in State Court:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," by which party and on what Date:	
<u>Defendant</u> Party	<u>12/29/2020</u> Date

Were there parties not served prior to removal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Were there parties dismissed/terminated prior to removal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Were there answers filed in State Court?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is there a pending TRO in State Court?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If you have answered "yes" to any of the above please list parties not served, the parties dismissed/terminated and the parties that filed their answers on the reverse of this page.

On the reverse of this page please list all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address and phone number, including area code.

Are copies of all state case pleadings attached to your removal?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If your answer is "No", when will they be filed: _____	
List the parties that are removing the case:	
<u>Cottingham Retirement Community</u>	_____
<u>Rochelle Watson</u>	_____
_____	_____

Parties Not Served	Parties Dismissed	Answers Filed
<i>I.E. Defendant John Doe</i>	<i>I.E. Defendant John Doe</i>	<i>I.E. Defendant John Doe</i> Defendants Cottingham Retirement Community and Rochelle Watson

Party and Type	Attorney(s)
<i>I.E. Plaintiff John Doe</i> Plaintiff: Steven Penny Defendant 1: Cottingham Retirement Community Defendant 2: Rochelle Watson	<i>I.E. Attorney(s) Name</i> <i>Firm</i> <i>Address</i> <i>City, State, Zip</i> <i>Telephone and Fax Number</i> <i>Supreme Court Number</i> Plaintiff Attorney: Rose Ann Fleming 3836 Ledgewood Dr. Cincinnati Ohio 452007 513-745-3648 Phone 513-745-4282 Fax Bar Number: 0041337 Attorney for both Defendants: Kristina Leach Salsbury & Salsbury, LPA 5611 Hudson Dr. Suite 400 Hudson, Ohio 44236 330-655-5760 Phone 330-655-0526 Fax Bar Number 0099425

USE A SEPARATE SHEET OF PAPER IF NECESSARY

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF OHIO WESTERN DIVISION**

STEVEN PENNY,)	
)	CASE NO. 1:21-cv-562
Plaintiff,)	
)	JUDGE
)	
v.)	
)	
)	
COTTINGHAM RETIREMENT COMMUNITY AND ROCHELLE WATSON)	
)	
Defendants.)	
)	

NOTICE OF REMOVAL

Defendants Cottingham Retirement Community and Rochelle Watson hereby remove to this Court the state action described below.

- I. On December 5, 2020, a civil action was commenced in the Hamilton County Common Pleas Court captioned Steven Penny v. Cottingham Retirement Community and Rochelle Watson and was assigned case number A 2004247. **Exhibit A**
- II. Both named Defendants were served on December 14, 2020. **Exhibit B**
- III. The Answer of both named Defendants was filed on December 29, 2020. **Exhibit C**
- IV. On August 11, 2021, Plaintiff filed a Motion for Leave to file a first amended Complaint, *instantly*, with the amended Complaint attached. **Exhibit I**
- V. On August 19, 2021 the Court granted Plaintiff's Motion for Leave to file a first amended Complaint, *instantly*. **Exhibit J**. This notice is timely.
- VI. This is a civil action within the original jurisdiction of this Court under 28 U.S.C. §1331, and is one which may be removed to the Court by Defendants pursuant to the provisions of 28 U.S.C. §1441(c) because Plaintiff alleges violation of Title VII of the Civil Rights Act of 1964

as amended, 42 U.S.C. §2000(e) *et seq.* and the Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*.

- VII. Pursuant to the provisions of 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's state law claims, alleging unsafe work conditions in violation of Ohio Constitution Article II Sections 33-35 and wrongful termination in violation of Ohio case law, because these state law claims are so related to the claims in the action within this Court's original jurisdiction that they form part of the same case or controversy.

WHEREFORE, Defendants Cottingham Retirement Community and Rochelle Watson pray that this action be removed to the United States District Court for the Southern District of Ohio, Western Division.

Respectfully submitted,

/s/Kristina Leach
KRISTINA LEACH (0099425)
SALSBURY & SALSBURY
5611 Hudson Dr. Suite 400
Hudson, Ohio 44236
Phone: 330-655-5760
Fax: 330-655-0526
kleach@salsburylaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

On August 31, 2021, the foregoing Notice of Removal was filed through the Court's electronic filing system and the Hamilton County Court of Common Pleas electronic filing system, and a copy was sent to Plaintiff's counsel via electronic mail to fleming@xavier.edu

/s/ Kristina Leach
KRISTINA LEACH (0099425)